

JUDGE JOHN C. COUGHENOUR
JUDGE MICHELLE L. PETERSON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

GUILD MORTGAGE COMPANY LLC,

Plaintiff,

vs.

CROSSCOUNTRY MORTGAGE LLC,

Defendant.

Case No. 2:21-CV-01376-JCC-MLP

**PLAINTIFF, GUILD MORTGAGE
COMPANY LLC'S MOTION TO COMPEL
DISCOVERY RESPONSES AND RULE
30(b)(6) DEPOSITION**

**NOTED FOR CONSIDERATION:
FRIDAY, MAY 27, 2022**

I. INTRODUCTION

Plaintiff Guild Mortgage Company LLC ("Guild") filed this action to remedy a wrongful scheme by CrossCountry Mortgage, LLC. ("CCM"), a competing mortgage lender, to misappropriate Guild's Kirkland branch, including over two dozen employees, to induce those employees to breach their contractual and legal duties, to interfere with Guild's customer relationships, and to steal and use Guild's confidential information to unfairly compete with Guild. This is not an isolated incident. CCM has a nationwide business strategy of improperly looting its competitors using a similar scheme, and then litigating the fallout as a cost of doing business.¹

Part of CCM's litigation strategy, in this case and others, is to delay discovery and to obfuscate the claims and defenses at issue with irrelevant allegations. In this case, CCM has sought

¹ See, e.g., Declaration of Eric B. Schwartz ("Schwartz Decl."), Ex. 1 (4/15/22 TRO requiring return of stolen documents in *LoanDepot.com v. CrossCountry Mortgage, LLC, et al.*, N.D. Ill Case No., 22-cv-01874), Ex. 2 (8/3/21 injunction ordering return of stolen documents in *LoanDepot.com v. CrossCountry Mortgage, LLC, et al.*, San Diego Sup. Ct. Case No. 37-2021-00022044).

1 extensions on, or violated, virtually every deadline, moved to stay the case pending the outcome of
2 other arbitrations, moved to file an improper counterclaim regarding alleged actions in Nevada, and,
3 repeatedly exploited professional courtesies to gain a litigation advantage.

4 Guild brings this motion to compel to seek very simple relief:

5 First, Guild requests the Court enter an order requiring CCM to comply with its own
6 agreement to produce responsive documents and information. On January 25, 2022, Guild served its
7 first set of requests for production of documents (“RFP1”) and first set of interrogatories
8 (“Interrogatories”). On February 24, 2022, CCM failed to timely respond, thus waiving its
9 objections. After Guild pointed out CCM’s waiver, CCM’s counsel claimed that COVID was to
10 blame (in truth, CCM was working on its motion to file counterclaims, which it submitted on
11 February 25, one day after its discovery was due), and asked for an extension. Guild granted the
12 extension, on the express condition that CCM provide substantive written responses to RFP1, the
13 Interrogatories, and Guild’s second set of requests for production (“RFP2”) by March 10, and
14 provide all responsive documents and information by March 24. CCM agreed in writing, without
15 condition or qualification. It is now May 6, and CCM has not produced all responsive information,
16 as it stipulated it would do. Instead, it asserted blanket objections to many of the requests, and failed
17 to produce all documents responsive to the requests to which it agreed to comply.

18 CCM also takes the position that it does not have to honor its written discovery stipulation
19 because all of the document discovery going forward must be handled in the context of the ESI
20 protocol. That is not consistent with what CCM promised, nor is it consistent with legal precedent
21 from this Court that says that the obligation to produce documents is distinct from the ESI protocol.
22 Moreover, CCM is not honoring its commitments regarding the ESI protocol. On April 26, 2022, at
23 CCM’s request, Guild agreed that CCM would run the ESI protocol that CCM proposed, in order to
24 advance discovery, provided that Guild had the right to propose further searches. However, on
25 May 2, CCM backtracked and advised that the ESI protocol returned too many documents, in its
26 view. CCM provided no proposed solution, and put the onus on Guild to propose revised search
27 terms. CCM also refuses to provide a date certain for the production of its documents, and admitted

1 today, May 6, that is just now ingesting documents, contradicting prior assertions that the data “has
2 been ingested into our review platform and is being housed at great expense.” So, the parties are
3 back to square one, with no agreed protocol and no deadline for the production of documents.

4 Enough is enough. The parties are five months into discovery with very little to show for it,
5 and discovery deadlines are rapidly approaching. The Court should order CCM to produce all
6 documents and information responsive to RFP1, RFP2, and the Interrogatories, including in response
7 to the topics objected to, within one week of entry of the order.

8 Second, Guild respectfully asks this Court to order CCM to provide a witness on each Rule
9 30(b)(6) topics noticed by Guild, and agreed to by the parties, within two weeks of entry of the
10 Court’s order. Guild served its 30(b)(6) notice on April 1, 2022, and provided one month’s notice,
11 which is generous under the applicable law. Thereafter, the parties met and conferred extensively,
12 and agreed on modified topics. Yet, as of this filing, CCM has not identified a deponent nor a date
13 for five of the agreed topics, taking the position that CCM will not produce a witness on four of the
14 topics until it subjectively decides it is done with its document production. However, CCM refuses
15 to commit to a date by which it will complete its production or produce its witnesses. CCM cannot
16 unilaterally obstruct Guild’s discovery until it decides it is ready to comply on some unknown date.
17 The rules state that Guild may take discovery in any order. CCM should be ordered to produce a
18 30(b)(6) witness on all agreed topics within two weeks of the entry of the Court’s order.

19 **II. STATEMENT OF FACTS**

20 **A. CCM’s Early Strategy of Delay and Failure to Comply With Agreements**

21 On October 8, 2021, Guild filed its complaint against CCM. Dkt. 1. One day before its
22 response was due, CCM requested a 21-day extension. Declaration of Renee Pesiri (“Pesiri Decl.”),
23 Ex. 3. Guild granted the extension with the understanding that the parties “can work together on a
24 reasonable briefing schedule” if CCM filed a motion. *Id.* On November 29, 2021, CCM filed a
25 motion to stay the entire case, without first conferring on the merits or the briefing schedule. Dkt. 23.
26 That motion was denied. Dkt. 35, 38.

1 **B. Guild Serves the Document Requests and Interrogatories at Issue**

2 On December 3, 2021, the parties held their Rule 26(f) conference, on December 17, they
3 exchanged initial disclosures, and on December 27, they submitted their Joint Status Report and
4 Discovery Plan. *See* Dkt. 33 at 3. On January 25, 2022, Guild served RFP1 and the Interrogatories
5 on CCM, with responses due on February 24. Pesiri Decl. Exs. 4-5. On February 3, Guild served
6 CCM with drafts of a stipulated protective order and an ESI protocol. Pesiri Decl. Ex. 6. On
7 February 4, Guild served RFP2 on CCM, with responses due on March 7. Pesiri Decl. Ex. 7.

8 **C. CCM Fails to Timely Respond, Waiving Its Objections, Agrees to a Conditional**
9 **Extension, Then Violates the Agreement**

10 On February 18, 2022, CCM requested a 30-day extension on its responses to Guild’s written
11 discovery, with no explanation other than that it “will need more time.” Pesiri Decl. Ex. 8. On
12 February 22, Guild responded that it “decline[d] CCM’s requested discovery extension, for which
13 we see no good cause.” *Id.* CCM did not provide any good cause or ask for a shorter extension. *Id.* It
14 just failed to timely serve responses and objections to RFP1 or the Interrogatories by the February
15 24, 2022 deadline. *Id.* Instead of responding to the pending discovery, CCM spent its time
16 investigating, preparing and filing a motion to file a permissive counterclaim on unrelated alleged
17 conduct in Nevada; CCM filed that motion on February 25. Dkt. 40. As the Court found, “the
18 proposed counterclaim [was] not raised for proper purposes” and CCM’s motion was denied. Dkt 51.

19 On February 28, Guild wrote to CCM to advise that CCM failed to timely respond to RFP1
20 and the Interrogatories, and thus waived its objections. Pesiri Decl. Ex. 8. CCM requested a belated
21 extension on the basis that “COVID-19 took” one of CCM’s attorneys “and [his] whole family out of
22 commission for an extended period of time during the last 30-days” (CCM did not explain how it
23 was able to prepare and file its motion to submit counterclaims during that same period). *Id.*
24 Nevertheless, Guild granted CCM a 14-day extension to March 10 to provide written responses as to
25 all outstanding discovery “on the express condition that CCM provide substantive responses and not
26 merely objections, and produce all requested materials . . . no later than March 24.” *Id.* (emphases
27 added). CCM agreed without qualification. *Id.*

1 CCM used its extension to prepare and serve written discovery on Guild, which it sent by
2 email on March 4. Pesiri Decl. Exs. 9-11. CCM also provided comments on the stipulated protective
3 order and ESI protocol that Guild proposed over a month earlier. Pesiri Decl. Ex. 12.

4 On March 10, CCM served written responses to Guild's discovery, objecting to numerous
5 requests and overwhelmingly failing to provide substantive responses. Pesiri Decl. Exs. 13-16.

6 On March 24, the parties agreed to the ESI protocol and stipulated protective order. Pesiri
7 Decl. Ex. 12. Also on March 24, the day CCM's document production was due per the parties'
8 written agreement, CCM emailed Guild to state that it would not produce documents because of a
9 motion it received in another case, but assured Guild that it was "preparing a first set of documents
10 for production, and will transmit them by Monday/Tuesday of next week." *Id.* No documents were
11 produced the following Monday or Tuesday. *Id.*

12 On March 25, the ESI protocol was signed and entered by this Court. Dkt. 47.

13 The following Tuesday, March 29, Guild advised CCM that it failed to honor the extension
14 agreement. Pesiri Decl. Exs. 12, 17-18. In response, CCM claimed that it could not produce the
15 documents it agreed to produce without a completed ESI protocol. Pesiri Decl. Exs. 12, 40, 41.

16 On March 31, CCM finally made its first production, consisting of 339 documents. Pesiri
17 Decl. Exs. 19-20. On the same date, CCM sent Guild a letter describing a proposed ESI search
18 protocol. *Id.* In that letter, CCM claimed that, "[t]he data that has been collected, which amounts to
19 approximately 80GBs (73,000 documents), has been ingested into our review platform and is being
20 housed at great expense." Pesiri Decl. Exs. 20.

21 **D. Guild Serves Its Rule 30(b)(6) Notice**

22 On April 1, 2022, Guild served CCM with notice of its intent to take the deposition of
23 CCM's corporate representative on 19 particularized topics pursuant to Rule 30(b)(6), which Guild
24 set to take place 30 days later, on May 2. Pesiri Decl. Ex. 21.

25 **E. CCM Refuses to Commit to Production or Deposition Dates Despite Numerous** 26 **Requests and Guild's Best Efforts to Meet and Confer**

27 Over the next month, the parties engaged in an extensive meet and confer process, but CCM

1 still would not commit to a document production date or to dates for many of the 30(b)(6) topics.

2 On April 8, 2022, the parties met and conferred about, *inter alia*, CCM's proposed ESI
3 searches, the deficiencies in CCM's March 10 written discovery responses, and Guild's 30(b)(6)
4 deposition notice. Pesiri Decl. ¶ 25. CCM stated that it would not produce a witness on all of the
5 topics on the requested deposition date, May 2. *Id.* In an April 13 letter, CCM objected to Guild's
6 deposition topics, and contended that a 30(b)(6) deposition was inappropriate because its ESI review
7 was not complete. *See* Pesiri Decl. Ex. 22.

8 On April 14, the parties met and conferred, including about the 30(b)(6) deposition. Pesiri
9 Decl. ¶ 27. CCM refused to identify witnesses or dates, stating it was likely going to file a protective
10 order, and that it needed search parameters in order to respond to Guild's RFPs before it could
11 proffer a witness on certain of Guild's deposition topics. *Id.* That same day, Guild sent CCM an
12 invitation to a further call, scheduled for April 21. *Id.*

13 On April 15, Guild sent a letter to CCM responding to its 30(b)(6) objections, narrowing or
14 clarifying certain topics, and requesting that CCM provide, by April 20, the names and available
15 dates for its corporate representatives. Pesiri Decl. Ex. 23. Guild also requested modifications to
16 CCM's proposed ESI protocol. Pesiri Decl. Ex. 24.

17 On April 19, CCM made a second production of 1,888 documents. Pesiri Decl. Ex. 25. CCM
18 later confirmed that it will not produce additional responsive documents outside the context of an
19 agreed ESI protocol. Pesiri Decl. Ex. 26 (4/26 Tr. at 7:12-8:13).

20 On April 21, CCM unilaterally canceled the scheduled meet and confer call, and refused to
21 meet until the following week. Pesiri Decl. Ex. 27-28.

22 On April 22, CCM sent a letter to Guild regarding the proposed 30(b)(6) deposition in which
23 it continued to refuse to offer certain witnesses "prior to CCM's ESI review and production being
24 substantially completed." Pesiri Decl. Ex. 29. On the same day, CCM served supplemental discovery
25 responses in which it objected to numerous topics entirely, and as to others responded that
26 documents "will be produced in due course, in compliance with the controlling ESI protocol." Pesiri
27 Decl. Exs. 30-32. CCM also raised objections with respect to the ESI protocol. Pesiri Decl. Ex. 33.

1 On April 26 and 27, the parties had meet and confer calls, during those calls, and in follow
2 up correspondence, the parties agreed on the wording of all 30(b)(6) topics. Pesiri Decl. Ex. 26 (4/26
3 Tr. at 36-49), Ex. 34 (4/27 Tr. at 1-44]). Yet, CCM continued to refuse to produce a witness on
4 several topics until the ESI protocol was complete, and it refused to identify a witness or date certain
5 on several other topics. Pesiri Decl. Ex. 35. The parties also discussed CCM's ESI search parameters
6 as proposed in CCM's April 22 letter, and at CCM's request, Guild agreed that CCM could proceed
7 immediately with running the protocol CCM proposed in its April 22 letter, with the understanding
8 that Guild would not be prejudiced from suggesting additional searches. Pesiri Decl. Ex. 26 (4/26 Tr.
9 at 8:9-10:25; 21:7-15; 32:7-13; 36:2-23).

10 On April 28, CCM finally identified witnesses and dates for some of the topics, but stated
11 that it had "not settled on a specific designee for" Topics 9, 10, 13, 17, and 18, and that it would not
12 designate a witness on Topics 5, 8, 11, and 12 "pending further discussions on timing and the ESI
13 initiative." Pesiri Decl. Ex. 35.

14 On April 28, Guild sent CCM a letter identifying additional ESI search parameters. Pesiri
15 Decl. Ex. 36. On May 2, CCM emailed Guild to advise that the initial ESI protocol that it agreed to
16 perform on April 26 was no longer agreeable. Pesiri Decl. Ex. 37. Also on May 2, Guild confirmed
17 dates for three designees, and asked for the witnesses CCM would be designating on Topics 9, 10,
18 13, 17, and 18, and a date certain on or before June 2, for when CCM would complete its document
19 production and proffer a witness on Topics 5, 8, 11, and 12. Ex. 35.

20 On May 4, CCM responded that it could not tell Guild who it would designate on Topics 9,
21 10, 13, 17, and 18, and stated that it would not move forward with scheduling depositions on Topics
22 5, 8, 11, and 12 because the results for the ESI searches that CCM had proposed had generated more
23 results than anticipated. *Id.* CCM suggested the parties "remain in touch" regarding scheduling; its
24 "hope" was to start making rolling productions by the middle/end of next week (the week of May 9).

25 On May 6, CCM admitted that it was still ingesting data and that "[o]nce the data is with the
26 vendor, we can engage in the important discussion started in your [ESI] letter." Pesiri Decl. Ex 38.
27 CCM proposed to start that conversation on May 9 – the week it hoped to start productions. *Id.*

1 To this date, CCM has failed to commit to a date on which it will produce the documents
2 responsive to RFP1 and RFP2, a date when it will produce documents responsive to the ESI protocol
3 it agreed to, or to supply a witness or cooperate in the scheduling of many of the topics in Guild's
4 30(b)(6) notice. Pesiri Decl. ¶ 48.

5 III. ARGUMENT

6 A. CCM Should be Ordered to Comply With Its Agreements to Produce Documents 7 Responsive to RFP1, RFP2, the Interrogatories and Its Initial ESI Protocol

8 CCM should be ordered to produce all documents and information responsive to RFP1,
9 RFP2, the Interrogatories, and to its initial ESI Protocol, on a date certain within one week of entry
10 of the Court's order because: (1) CCM stipulated to do so, but never performed, (2) CCM waived its
11 objections to RFP1 and the Interrogatories, (3) CCM's objections to numerous requests and
12 interrogatories lack merit, and (4) CCM cannot rely on the ESI protocol as an excuse to violate its
13 agreement to produce responsive documents and information, as the two are separate.

14 First, CCM stipulated to provide the discovery sought by this motion. In exchange for a
15 continuance, CCM agreed in writing, without condition or qualification, to produce **all** documents
16 and information responsive to RFP1, RFP2, and the Interrogatories by March 24, but it did not do so.
17 CCM should be held to its stipulation, and ordered to produce all responsive documents and
18 information post haste.

19 "As required by LCR 37(a), all discovery matters are to be resolved by agreement if
20 possible." Dkt. No. 37, Order Setting Trial Date and Pretrial Schedule, at 3; *see also* Fed. R. Civ. P.
21 29 ("the parties may stipulate that . . . other procedures governing or limiting discovery be
22 modified"). Typically, therefore, "[t]o the extent that [p]arties enter into agreements on the best way
23 to conduct discovery, courts should uphold and honor such agreements." *Pinks v. M&T Bank Corp.*,
24 13-CV-1730 (LAK)(RLE), 2016 WL 1216813, at *4 (S.D.N.Y. Mar. 25, 2016).²

25 ² "Courts are inclined to enforce discovery agreements between the parties, particularly when the parties agreed to
26 each other's requests." *Roy v. Fedex Ground Package Sys.*, 3:17-cv-30116-KAR, 2021 WL 3727143 at *16 (D. Mass.
27 Aug. 23, 2021) (internal citation and quotation omitted). "The rationale underlying this principle is simple: if the parties
28 could not rely on courts to enforce discovery agreements, there would be little incentive for parties to make them." *In re*
Santa Fe Natural Tobacco Co. Mktg. & Sales Practices & Prods. Liab. Litig., No. MD 16-2695 JB/LF, 2018 WL
3972909, at *11 (D.N.M. Aug. 18, 2018).

1 Second, CCM waived its objections to RFP1 and the Interrogatories. It is beyond credible
2 dispute that CCM failed, without good cause, to timely assert objections. CCM blamed COVID, but
3 that excuse is not credible given CCM's contemporaneous filing of its motion to file counterclaims.
4 As such, it has no basis to object to the relief sought herein as to RFP1 and the Interrogatories, and
5 all responsive information should be produced immediately, without objection. *See* Fed. R. Civ. P.
6 33(b)(4) (any ground not stated in timely objection to interrogatory waived unless court excuses
7 failure); *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1473 (9th Cir. 1991) ("It is
8 well established that a failure to object to discovery requests within the time required constitutes a
9 waiver of any objection.") (citation omitted), *cert. dismissed*, 506 U.S. 948 (1992).³

10 Third, CCM's specific objections and refusal to produce documents and information lack
11 merit and should be overruled. *See* Pesiri Decl. Exs. 30-32.

12 *Supp. Responses to RFP1 Nos. 24, 37:* CCM refused to produce documents showing its
13 policies/procedures governing the use of transitional credentials and policies related to CCM's use of
14 customer relationship and loan processing systems because they are "not relevant." That is not a
15 valid objection. CCM's policies related to transitioning loans *before* the former Guild employees left
16 Guild is directly relevant to whether CCM stole loans from Guild. As are policies related to whether
17 employees can take or retain information stored in CCM's CRM.

18 *Supp. Responses to RFP1 Nos. 36, 38, 39:* CCM refused to produce information provided to
19 its former employees, which constitutes non-public personal information. As explained to CCM,
20 whether CCM violated its own rules in its theft of Guild's information is relevant to whether CCM
21 conspired to misappropriate information from Guild, and CCM's policies, communications, and
22 actions relating to similar information are highly probative of core issues in this case, including the
23 value and confidentiality of the information in the industry.

24 *Supp. Response to RFP1 No. 40:* Guild asked for the document CCM identified in CCM's

25 ³ *See also Apple Inc. v. Samsung Electronic Co., Ltd.*, 2012 WL 952254, at *2 (N.D. Cal. Mar. 20, 2012)
26 ("Objections not interposed in a timely initial response may not be held in reserve and interposed after the period
27 allowed for response. ... ") (citation omitted); *Ramirez v. County of Los Angeles*, 231 F.R.D. 407, 409-10 (C.D. Cal.
28 2005) (court declined to consider objections that were not asserted in responding party's original discovery responses
based upon party's failure timely to make such objections).

1 initial disclosures, and CCM responded that it “identified categories of documents,” indicating that it
2 will not produce responsive documents. CCM should be required to produce the documents it admits
3 are relevant to the claims and defenses in this case.

4 *Supp. Responses to RFP2 Nos. 48, 50:* These requests seek information related to CCM’s
5 plans for and opening of any CCM branch where any former Guild employee currently works
6 (including financial statements), which is relevant to Guild’s claims of misappropriation—i.e.,
7 whether CCM planned to steal an entire branch of Guild employees and open a new CCM branch
8 (which is what it did). CCM’s refusal to produce this information on the grounds that it is not
9 “related to the claims and defenses at issue here” lacks merit and its objection should be overruled.

10 *Supp. Responses to RFP2 No. 51:* CCM refused to produce documents reflecting CCM’s
11 profitability, despite Guild’s explanation that this is relevant to Guild’s damages.

12 *Supp. Responses to RFP2 Nos. 47, 52, 54, 55:* CCM has improperly narrowed Guild’s
13 requests to identify and understand the terms of all mortgage loans originated by former Guild
14 employees after they were employed by CCM. Instead of providing information related to all loans,
15 CCM has decided that it will produce a closed loan report (with only the borrower’s name and
16 contact information, despite Guild’s request for much more information) for all loans, and then will
17 provide loan-specific information “related to any borrower with any connection to Guild.” As Guild
18 has explained, this misses the mark. In order to undertake a damages analysis, including an ill-gotten
19 gains analysis, Guild needs to understand the terms of all loans closed by the former Guild
20 employees since being employed by CCM; not just those loans that CCM has determined are
21 “related to any borrower with any connection to Guild,” which will be a contested issue in this case.

22 *Supp. Response to ROG No. 7:* Instead of identifying the former Guild employees whom
23 CCM communicated with about Guild’s customer data, CCM has improperly stated that it will
24 produce documents. At trial, as Guild explained, Guild may admit CCM’s list of the Guild
25 employees whom CCM contacted about Guild’s customer data.

26 Fourth, the ESI Protocol does not vitiate CCM’s agreement to produce all documents and
27 information responsive to RFP1, RFP2, and the Interrogatories. This Court has previously made

1 clear that “the obligation to respond to discovery requests is not supplanted by the ESI Agreement.”
2 *See Albert v. Lab’y Corp. of Am.*, 536 F. Supp. 3d 798, 800 (W.D. Wash. 2020). As this Court
3 further explained in *Albert* “[a] reasonably accessible electronic document that is responsive to a
4 discovery request is no different than a reasonably accessible paper document and must be produced
5 without regard to the parties’ agreement to use search terms.” *Id.* With respect to information that is
6 reasonably accessible, “a party responding to a Rule 34 production request is under an affirmative
7 duty to seek that information reasonably available to it from its employees, agents, or others subject
8 to its control.” *Id. citing Gray v. Faulkner*, 148 F.R.D. 220, 223 (N.D. Ind. 1992) (internal quotations
9 and alterations omitted). Nevertheless—even after Guild informed CCM of the holding in *Albert*—
10 CCM served supplemental discovery responses asserting numerous times that CCM would only
11 produce responsive documents subject to the ESI protocol. *See* RFP1 Nos. 2, 3, 9, 10-18, 21-23, 25,
12 27, 28, 29, 31-33, 35; RFP2 Nos. 42, 44-47, 52, 54, 55; Interrogatories Nos. 2, 4, 6.

13 **B. CCM Should be Ordered to Produce its Corporate Representatives for Deposition**
14 **Pursuant to Rule 30(b)(6)**

15 Guild asks that the Court order CCM to produce a 30(b)(6) witness on each noticed and
16 mutually agreed topic, within two weeks of issuance of its order, for the following reasons.

17 First, Guild’s 30(b)(6) notice was valid and enforceable, as Guild provided reasonably
18 particularized topics and adequate notice. Rule 30(b)(6) allows the deposition of an entity regarding
19 matters that are described with reasonable particularity. Fed. R. Civ. P. 30(b)(6). Here, the topics
20 propounded by Guild were reasonably particularized on their face, and the parties have now
21 mutually agreed to slightly modified descriptions. Pesiri Decl. Ex. 35.

22 Guild also provided adequate notice of 30 days. Rule 30 requires that “[a] party who wants to
23 depose a person must give reasonable written notice to every other party.” Fed. R. Civ. P. 30(b)(1).
24 The case law establishes that 30 days is more than reasonable – it is generous. *See, e.g., Doe v.*
25 *Trump*, 329 F.R.D. 262, 273 (W.D. Wash. 2018) (rejecting arguments that two 30(b)(6) depositions
26 noticed 20 days before the discovery cutoff were unduly burdensome and granting motions to
27 compel); *Ballard Marine Constr., Inc. v. EHW Constructors*, No. 3:16-cv-05633-RBL, 2019 WL

1 1436878 at *3-4 (W.D. Wash. Apr. 1, 2019) (“Notice of eight calendar days and five business days
2 minimally satisfied Rule 30’s reasonableness requirement.”); *Gamboa v. King Cty.*, No. C 06-
3 1034RSM, 2008 WL 509324, at *1 (W.D. Wash. Feb. 22, 2008). (“[c]ommonly, courts find that
4 notice of at least five days is sufficient for a party’s deposition.”)

5 Second, CCM cannot delay its 30(b)(6) deposition until after some undefined date when it
6 decides it is done with document production. The Rules “are unambiguous . . . [that] unless the
7 parties so stipulate or the Court orders otherwise, the methods of discovery may be used in any
8 sequence.” *Doe v. Trump*, 329 F.R.D. 262, 273 n.12 (W.D. Wash. 2018) *citing* Fed. R. Civ. P.
9 26(d)(3)(A). CCM contends that it needs to complete its document production in order to prepare its
10 witnesses for deposition as to some of the topics, but that argument lacks merit. Even if documents
11 are required for preparation, 30 days’ notice was sufficient for CCM to locate the documents it
12 needed and to prepare its witnesses. Indeed, where a notice of deposition is combined with document
13 requests, 30 days is sufficient notice. *See* Fed. R. Civ. P. 30(b)(2) and 34(b)(2)(A); *see also*
14 *Blankenship v. Hearst Corp.* 519 F.2d 418, 429 (9th Cir. 1975); *Howell v. Holland Am. Line USA*
15 *Inc.*, No. C13-0730JLR, 2014 WL 5325225 at *11 (W.D. Wash. Oct. 17, 2014) (“[A] party’s failure
16 to appear for his deposition is not excused on the ground that the discovery was objectionable, unless
17 the party failing to act has a pending motion for a protective order[.]”).

18 CCM’s evasive discovery strategy is improper and frankly sanctionable. *See Henry v. Gill*
19 *Indus., Inc.*, 983 F.2d 943, 947 (9th Cir. 1993) (unreasonable failure to schedule a deposition is
20 sanctionable under Rule 37); Fed. R. Civ. P. 37(a)(4) (an evasive or incomplete disclosure or
21 response is treated as a failure to disclose or respond).

22 IV. CONCLUSION

23 For the foregoing reasons Guild respectfully submits that the Court grant this motion and
24 order CCM to produce all documents and information responsive to RFP1, RFP2, and the
25 Interrogatories, without objection, within one week of entry of order, and order CCM to produce a
26 witness on all agreed Rule 30(b)(6) deposition topics within two weeks of the order.

1
2 Date: May 6, 2021

SIDLEY AUSTIN LLP

3 By: /s/ Eric B. Schwartz

4 Chad S. Hummel (*Pro Hac Vice*)

Eric B. Schwartz (*Pro Hac Vice*)

5 555 W. 5th Street, Suite 4000

6 Los Angeles, CA 90013

(213) 896-6000

7 eschwartz@sidley.com

8 /s/ Eric D. Lansverk

HILLIS CLARK MARTIN & PETERSON P.S.

9 Eric D. Lansverk

10 999 Third Avenue, Suite 4600

Seattle, WA 98104

11 (206) 470-7634

eric.lansverk@hcmp.com

12 Attorneys for Plaintiff

13 GUILD MORTGAGE COMPANY LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Counsel for Defendant CrossCountry Mortgage LLC:

Benjamin J. Stone	Benjamin.Stone@lewisbrisbois.com
Brad Bigos	Brad.bigos@lewisbrisbois.com
Kylene R. Slocum	Kylene.Slocum@lewisbrisbois.com
John R. Conley	John.Conely@lewisbrisbois.com
	Tami.Foster@lewisbrisbois.com
	Hilton.Platt@lewisbrisbois.com

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 6th day of MAY, 2022 at Los Angeles, California.


Leticia Espinoza